

TO THE EDITORS.

Messrs. GALES & SEATON:—I have heard the case of Cadet Drake spoken of repeatedly, and in the Intelligence of Monday, 28th September, I saw the following article:

The Louisville City Gazette cites a case, a few to have occurred early in the last Administration, in which the sentence of a Court Martial of eleven men of a Cadet at the Military Academy was reversed, and the officers composing the Court re-buked, because of the admission of evidence upon the trial showing what a negro had said in the case.

The Secretary of War, (Mr. Eaton,) it is said, reversed the opinion of the Court, and rebuked the officers composing it, for dismissing a young officer upon hearsay testimony, and *that the testimony of a negro*. He said if the negro had been there in person, he could not have testified against Cadet Drake, and much less, therefore, could his statement be received second-hand.—The Editor of the Gazette calls upon us (the Editors of the National Intelligencer) to procure the opinion in this case, and publish it.

"With this request we should have pleasure in complying, if the opinion were within our reach. But it is not. We have *heard* of the case before, and what we have heard of it corresponds substantially with the above statement."

On Tuesday, I called at the War Department, and the Secretary being absent, the chief clerk declined showing me the papers in Mr. Drake's case, without permission from the Secretary of War. On Wednesday, Mr. Merrick, of the United States Senate, accompanied me to the War Department, and the result of our interview with the Secretary of War will appear soon from the following statement, prepared soon after:

WASHINGTON, Sept. 20, 1840.  
CASE OF CADET DRAKE.

Our paper of Saturday last contained a statement of Mr. S. MERRICK, of Maryland, and Mr. STANLEY, a member of the House of Representatives from the State of North Carolina, detailing the circumstances of their application to the Secretary of War for permission to inspect the papers in the case of CADET DRAKE. The application was refused on the ground of a rule, which Mr. Stanley gives conclusive proof that the Secretary of War had not considered binding when the Editors of the Globe called on him to break it. It was only the other day that we heard of the refusal by the Secretary of State to certify to the official character of a judicial officer, whose commission was recorded in his Department, and of his ultimately consenting only on the demand to inspect the proceedings of the Court.

The Secretary of War (Mr. Poinsett) replied that he could not grant it; it was against a rule of the Department to show such papers, or to give copies, unless the person interested desired to have them, or unless either House of Congress or one of its committees desired copies. The Secretary remarked that great injustice might be done if this rule was not adopted; that the character of innocent persons might suffer by allowing extracts to be taken from papers of Courts Martial. The Secretary was then told that, for our present purpose, we waived the demand to inspect the proceedings of the Court, and that neither of us desired to know anything relating to the charges against Drake; we only desired to see what was done by the then Secretary of War. (Major Eaton) as we understood, relative to the legality of some of the testimony taken upon that trial. Mr. Poinsett replied, he could not allow us to see this.

The Secretary was then asked if he did not object to state whether the evidence of a negro, *hearing* or otherwise, was not taken in the case of Mr. Drake, and whether the Secretary of War at that time had not reversed the proceedings on account of *said* negro testimony. The Secretary (Mr. Poinsett) replied, he could not answer that question, because he might as well exhibit the papers as state their contents.

We then said, we hold it to be the undoubted right of the People, or at least of their Representatives, to inspect the public proceedings of their functionaries, and we therefore demand to see the opinion of the Secretary of War in this case.

The Secretary repeated that he could not comply with this demand.

This is the substance of what passed during the interview.

WM. D. MERRICK, of Maryland.

EDWARD STANLEY, of N. Carolina.

I will not present discuss the propriety of the rule adopted by the Secretary of War, and whether the information sought by Mr. Merrick and myself could not have been given without violating the rule. It will be observed there was no information desired as to the charges against Cadet Drake; the simple inquiry was, was not negro testimony admitted? It was not the case reversed, because something a negro had said was given in evidence. Admitting Mr. Poinsett to be right in refusing to give information of the proceedings which have taken place of a public-character-admitting, for the sake of argument, he has the right to exclude the Representatives of the People from having access to the records of his Department, surely no one will say Mr. Poinsett could with propriety allow others to see or know of such matters.

The People will contrast the account of the interview between Mr. Poinsett, and Mr. Merrick and myself, with the following article from the Globe. "Look on that picture, and on this."

DEAR SIR: In a conversation with you a few days since, you stated that you had disapproved the decision of a court-martial in the case of Cadet Crittenden on two grounds—

1. That negro testimony could in no case be admitted.

2. That still less could it be admitted at second hand or as hearsay.

I say to the letter of Mr. Poinsett, published in the Globe of Friday, 28th of August, that there was a case of Mr. Drake, where the decision of a court martial was set aside, because the Secretary of War, in his own language, declared that negro evidence could not be admitted. Is this the case of which you speak, and do you remember the case of Mr. Drake?

Will you, my dear sir, be good enough to state in writing the case, as you remember it, of which we were speaking, and the true grounds of your decision?

Your friend,

C. DOWNING.

Gen. J. H. EATON.

WASHINGTON, Sept. 2, 1813.

DEAR SIR: I reply to you hastily. The case to which you refer I well recollect, and the following are the circumstances:

Some person, Mr. Drake perhaps, was brought before a court martial at West Point, of which Major Hitchcock was judge advocate. The record showed that some free negro had been treated as slave; of the practised error, the negro may have been forced to depart. He was absent at the trial, when the court determined that his statement, made at the time, should be received as evidence; and it was received—the party was dismissed, and Mr. Crittenden's son from Kentucky was also dismissed for contumacy, because he would not reveal the confidential conversations of his room-mate.

I reversed the decision of the court on the ground, 1st, that negro testimony could not be received, and more especially in the case before me, for consideration, where it was mere hearsay testimony. Mr. Crittenden I also reinstated, because I held his conduct, in not revealing the secret of his associates at the college, highly commendable and proper, and so declared in my reversal of the proceedings.

If you have any object for making of me this inquiry, I beg you to ask the Secretary of War for a copy of my decision. He can have no objection to afford it, and I am quite confident will sustain what I state to you.

Your friend,

J. H. EATON.

Wash. Department, Aug. 22d, 1840.

Sir: I herewith return to you the letter of Mr. [REDACTED] which accompanied your note of the 18th inst.

The statement made to that gentleman, as often in his letter, is not correct. The case referred to was that of Cadet Drake, with which there neverto have been no direct interference on the part of the then President, General Jackson.

There was no negro witness who testified before the Court; one was sought for as a witness, but could not be found. The decision of the Court was set aside by the Secretary of War, and, to his own words, because "the party was convicted upon hearsay testimony." Very respectfully, your obedient servant,

J. R. POINSETT.

Honest Whigery, what is to be thy next resort? [I have dictated a few words in Mr. Poinsett's letter to the Editors of the Globe.]

He can give the Editor of the Globe a statement from the case, a part of the "words" used by the Secretary, and yet the rules of his Department prevent his giving us probably the next ten or twelve words to those he gives the Globe.

He does not deny that General Jackson *interfered*, and reinstated the Cadet, because negro testimony had been referred to on his trial. Not at all. But, says Mr. Poinsett there was no "direct interference" on the part of General Jackson. That means, probably, that General Jackson did not write with his own hand that Cadet Drake must be reinstated on account of the negro testimony, but did he not interfere *indirectly*? Does not Mr. Eaton, the Secretary of War in eighteen hundred and thirty, refer to the opinion of the President? Was not something that a negro had given as evidence the trial of Cadet Drake?

P. R. FENDALL,  
Chairman Exec. Com.

General R. K. CALL, Washington.

WASHINGTON, October 5, 1840.

Dear Sir: In reply to your note of this mor-

ning, I have to state that, soon after the siege of New Orleans, of which Major H. D. Pier, of the 44th United States Infantry, was President, and that a person of color was introduced as a witness, for negro given in evidence? Did not General Jackson and Major Eaton, who were men of "Southern principles," object to the use of such testimony? And could not Mr. Poinsett answer such questions with as much propriety as he could answer the "application" of the Globe?

Those questions I leave for our patriotic People to answer; that People must soon decide whether they will consent that the records of the country should be kept to be used for the purpose of a party, while those who do not support the administration are prohibited from seeing them.

From the refusal of the Secretary of War, unprecedent, as far as I know, to exhibit the action of Gen. Jackson, or his Secretary of War, Maj. Eaton, on this case, to two Representatives of the people of the Southern States, after having given a statement touching the same (and garbled, as I believe,) to the editors of the Globe newspaper, as well as from the evidence derived from the refusal of the Secretary of War, unprecedent, as far as I know, to exhibit the action of Gen. Jackson, or his Secretary of War, Maj. Eaton, on this case, to two Representatives of the people of the Southern States, after having given a statement touching the same (and garbled, as I believe,) to the editors of the Globe newspaper, as well as from the evidence derived from the refusal of the Secretary of War, unprecedent, as far as I know, to exhibit the action of Gen. Jackson, or his Secretary of War, Maj. 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